IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 494 OF 2007

Date of Decision: 18th April, 2007

The Thana Khas Agriculture Service …… **Petitioner**

Versus

Roop Chand …….**Respondent**

Coram

Hon'ble Mr. Justice Deepak Gupta, J.

Hon'ble Mr. Justice Surinder Singh,J.

Whether approved for reporting?

For the petitioner : Mr. S D Gill, Advocate

For the respondent : Nemo

Surinder Singh,J. *(Oral)*

The petitioner-Society has filed the instant petition, for quashing and setting aside the orders passed by the Registrar Co-operative Society, Dharamshala with a further request to pass an appropriate order for taking action, under Section 69 of the H P State Co-operative Societies Act, 1968, against respondent No.1.

Whether reporters of Local Papers may be allowed to see the Judgment?

The factual matrix of the case is that during the conduct of the audit of the petitioner society, for the period from 1.4.1998 to 15.4.1999 the Inspector (A) found that the respondent No.1, who was Secretary of the petitioner Society, had misappropriated an amount of Rs.5,880/- by fraudulent means and also obtained payment of Rs.70/- as Traveling Allowance (T.A.) illegally, thereby causing loss to the petitioner Society and he had recommended for necessary action for the realization of the amount aforesaid.

On this report, an inquiry in terms of Section 69(1) of the H P Co-operative Societies Act, 1968, hereinafter to be referred as "the Act" was ordered on 24th March, 2001. Sh. Jagan Nath Nanda, Inspector (A) of the Co-operative Society, Dharamshala was appointed as an Inquiry Officer, who conducted the inquiry and on the basis of the evidence led before him he did not find anything against respondent No.1. Based upon the report (Annexure P-14) the Assistant Registrar of the Co-operative Societies, Dharamshala, cancelled the charge vide his orders dated 13.10.2001 (Annexure P-15) and advised the Management of the Society to do the needful for the recovery of the amount from the Agriculture Department. But the petitioner felt

aggrieved by this order thus filed an appeal, under Section 93 of the Act, before the Additional Registrar, Co-operative Societies, Dharamsahala, which was dismissed vide order dated 11th October, 2006 (Annexure P-16). Again this order unsuccessfully challenged before the Principal Secretary (Co-operation) to the Government of Himachal Pradesh, who also dismissed the petition vide order dated 8th February, 2007 (Annexure P-17).

Against the aforesaid order, the petitioner society has filed the present writ petition, alleging that the dismissal of the revision was purely on technical ground.

We have heard Mr. Gill, learned counsel for the petitioner and have gone through the entire record of the case.

As a matter of fact, the petitioner has raised only the factual issues before us which did not find favour with appropriate authorities, under the Act. The learned counsel for the petitioner has failed to convince us whether the fundamental procedure adopted by the appropriate authorities was not followed or they misapplied the law or that they have exercised powers not vested in them. This Court while exercising the powers in a writ of certiorari does not sit as a court of appeal. Since no law

point is involved, in these circumstances no case, for our interference, is made out. Accordingly, the writ petition is dismissed.

CMP No.851 of 2007

The application does not survive in view of the dismissal of the writ petition. The application stands disposed of accordingly.

(Deepak Gupta),J.

April 18, 2007 (Surinder Singh),J.
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